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IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR DAVIS COUNTY, STATE OF UTAH, FARMINGTON DEPARTMENT

In the matter of the marriage of: **LAUREN R. MARSH**, and **KIRK RUSSEL MARSH**.	**DECLARATION OF LAUREN MARSH ZIMMER IN SUPPORT OF MOTION TO ENFORCE ORDER AND FOR SANCTIONS** Civil No.: 184701031 Commissioner: Christina Wilson Judge: Michael Edwards

Lauren Marsh Zimmer (hereafter "Lauren" or "Mother"), declares and states as follows:

1. I am a party in the above-entitled matter, am over eighteen (18) years of age, and am competent to make this Declaration. The statements set forth in this Declaration are made by me on the basis of my personal and direct knowledge of the matter and information relative to the issues in this action, unless stated upon information and belief, and to these, I believe them to be true.

2. I am providing this Declaration in support of my *Motion to Enforce Order and for Sanctions* based on Kirk Russel Marsh's (hereafter "Russel" or "Father"), failure to follow this Court's orders. I am seeking sanctions consistent with Utah Code Ann. §§81-1-203(2) (formerly U.C.A. §30-3-3(2)) and 78B-6-310. Specifically, I am seeking a finding of contempt, a fine for each finding of contempt, jail time for each finding of contempt, an order that Father read BIFF for Co-Parenting Communication

by Bill Eddy, Ph.D., an order that we use Our Family Wizard (OFW) for communication at Father's expense, an order that Father respond to communications within 48 hours, an order that Father attend a high conflict parenting class, an order that Father remove his Instagram posts showing letters written to me, under the account @kirkrusselmarsh, an order that Father engage in therapy with an AFCC informed therapist, an award of attorney's fees, and any other sanctions the Court deems appropriate to gain Father's compliance.

3. The exhibits mentioned in this Declaration will be provided to the opposing party contemporaneously with him being served with the documents pertaining to the *Motion*. Another copy will be provided to the Court before the hearing to be available for the Court's review.

RELEVANT BACKGROUND INFORMATION

4. Russel and I are the parents of three minor children: N.R.M. (born November 2010); I.L.M. (born June 2012); and I.A.M. (born June 2015).

5. A *Bifurcated Decree of Divorce* was entered by this Court on May 14, 2019. On November 27, 2019, the Court entered a *Supplemental Decree of Divorce*. On April 8, 2021, the Court entered an *Amended Supplemental Parenting Plan*. These are the controlling orders in the matter.

6. Father has a history of non-compliance with laws and court orders. He believes that he can cherry pick which laws and court orders to abide by. Father was arrested in July 2017 for stealing approximately $8,000,000 and pled guilty to wire fraud, bank fraud, and aggravated identity theft. He served for two years and nine months in a federal prison in Maryland. He was released in fall 2020 with provisions of home confinement and the required use of an ankle monitor. Father was only released at this time because of inmate health concerns with COVID-19. Father currently resides with his parents in Virgina.

7. According to the *Supplemental Decree of Divorce*, Father was ordered to pay me $700 a

month for child support despite his low-income calculation while in prison. Father ceased paying me child support in December 2023. He has paid $0 in child support since that time. Additionally, Father was ordered to share equally in any out-of-pocket medical premiums, and medical, dental, orthodontic, or psychiatric care of the minor children. Father ceased paying me any of these amounts since December 2023. Father ignores my requests for payment for these issues, despite being ordered to do so by the Court.

ISSUES FOR MOTION TO ENFORCE

Child support

8. On November 27, 2019, after trial in this matter, the Court ordered that "[Russel] shall pay [Lauren] child support in the amount of $700.00 per month for base child support." ***See Supplemental Decree of Divorce, ¶ 8.*** Specifically, the Court found

> "Under the low income calculation, Respondent would only owe $30.00 per month for child support. Given the facts of this case, the reason for Respondent's lack of earnings being his own fault due to his criminal conduct, and the needs of the parties' minor children for support, the Court finds that it is justified in deviating from the guidelines in ordering Respondent to pay Petitioner child support in the amount of $700.00 per month for base child support beginning September 1, 2019." ***See Findings of Fact and Conclusions of Law Re: Supplemental Decree of Divorce.***

9. Additionally, our orders make it clear that ensuring that our daughters' financial needs are provided for are a priority. Our *Amended Supplemental Parenting Plan* provides that "[w]e recognize our mutual obligation to provide for our daughters. We will make our daughters' well being a priority by supporting her/them financially and emotionally. We will put our daughters' interest above our own in caring for them and providing for their needs." ***See Amended Supplemental Parenting Plan, ¶ 15.*** Our *Amended Supplemental Parenting Plan* was ordered by the Court after both Father and I appeared for a hearing on the Supplemental Parenting Plan on May 26, 2020. Father is aware of his obligations under our *Amended Supplemental Parenting Plan*.

10. In June 2023, Father failed to pay the full-amount of his child support obligation. When he did not make this payment, I emailed him for clarification on June 27, 2023, July 6, 2023, July 17, 2023, and August 2, 2023. ***See Emails, Exhibit 1.*** Finally, on August 3, 2023, Russel responded but failed to provide clarification or answers regarding why he refused to pay the full child support amount. Instead, Russel requested that I send him a list of all expenses each month, which I had already been providing to him.

11. In January 2024, Father escalated his failure to properly pay for his financial obligations for our daughters. The last form of any payment that I have received from Father was on December 5, 2023. ***See Transaction History, Exhibit 2.*** In January 2024, Russel made no payment for his child support obligations. Father then made no payment for child support in February 2024, March 2024, April 2024, May 2024, June 2024, July 2024, August 2024, September 2024, October 2024, November 2024, and December 2024. As the Court can see, for almost all of 2024, Russel has paid zero child support. It has been over one year since Father has made a child support payment.

12. Father owes me $7,700 for child support from January 2024 through November 2024. I have included a table below detailing the monthly amount ordered, what I received from Father, and the amount he still owes.

Table 1: Child Support

Month	Amount Ordered ($700.00 plus arrears)	Amount Received from Father	Amount Owing
January 2024	$700 (plus arrears)	$0.00	$700.00
February 2024	$700 (plus arrears)	$0.00	$700.00
March 2024	$700 (plus arrears)	$0.00	$700.00
April 2024	$700 (plus arrears)	$0.00	$700.00
May 2024	$700 (plus arrears)	$0.00	$700.00
June 2024	$700 (plus arrears)	$0.00	$700.00
July 2024	$700 (plus arrears)	$0.00	$700.00
August 2024	$700 (plus arrears)	$0.00	$700.00

September 2024	$700 (plus arrears)	$0.00	$700.00
October 2024	$700 (plus arrears)	$0.00	$700.00
November 2024	$700 (plus arrears)	$0.00	$700.00
			TOTAL UNPAID: $7,700

13. Through November 2024, Father is behind on his child support a total of $7,700.

14. I request that this Court award a judgment of $7,700 in past due child support and that this Court hold Father in contempt of Court for his failure to pay.

Insurance premiums

15. Father has not paid me his equal share of insurance premiums since December 2023. I have included a table of all the amounts owed by Father for out-of-pocket medical premiums since January 2024.

16. Pursuant to ¶ 9 of the *Supplemental Decree of Divorce*, Father and I are required to share the costs of medical and dental insurance, if any, equally. The monthly per capita share for insurance coverage for our minor children is $240. ***See Insurance Verification, Exhibit 3.*** Father's equal monthly share is $120. Father has paid $0 since December 5, 2023. Father owes $1,320 in unpaid insurance premiums from January 2024 through November 2024.

17. I request that this Court award a judgment of $1.320 in past due insurance premiums.

Table 3: Unpaid Insurance Premiums	
Pay Date	**Portion Owed by Father**
January 2024	$120.00
February 2024	$120.00
March 2024	$120.00
April 2024	$120.00
May 2024	$120.00
June 2024	$120.00
July 2024	$120.00
August 2024	$120.00
September 2024	$120.00
October 2024	$120.00

November 2024	$120.00
	TOTAL UNPAID: $1,320

Medical expenses

18. According to our *Supplemental Decree of Divorce* and *Amended Supplemental Parenting Plan*, the Court ordered that we shall "share the costs" of "[a]ny out-of-pocket medical, dental, orthodontic, or psychiatric care" for our daughters." *Id.* The Amended Supplemental Parenting Plan also confirms that "[p]ayment will be made within 30 days of receipt of verification of expenses." ***See Amended Supplemental Parenting Plan, ¶ 15***. Also, as detailed above, the Court's orders clearly provide that the payment of these expenses must be a priority. *Id.* at ¶ 15. Our minor children have required routine and non-routine medical assistance and intervention since the entry of the *Supplemental Decree*. Russel ceased paying his equal portion of these expenses in December 2023.

19. I have diligently provided Father with timely notice of all expenses. ***See Emails, Exhibit 4.*** He has not reimbursed me any portion of the medical costs with which I have provided him notice of since December 2023. I have included a table with all of the medical expenses for our three minor children since December 2023, along with Father's portion owed, and the date with which I provided him notice of the expense. Father owes a total of $1,314.26 in past due unreimbursed medical expenses.

Table 4: Unpaid Medical Expenses			
Nature of Medical Expense	**Date Father was provided with Notice**	**Medical Expense Amount**	**Father's Portion Owed**
Isabelle's seizure medication	5/4/2023	$30.73	$15.36
Natalie's strep, Feb. 25; Isabelle's strep, March 7; Isla therapist, March 27, 2023	5/10/2023	$296.27	$148.14
Isabelle meds refill, Sept. 5, 2023	9/6/2023	$32.27	$16.13
Isla therapist, Sept. 5, 2023	9/6/2023	$50.00	$25.00

Isabelle meds refill, Oct. 9, 2023	10/11/2023	$32.27	$16.13
Isabelle meds refill, Nov. 2, 2023	11/2/2023	$32.27	$16.13
Isabelle therapy, Oct. 18 and 24, 2023	11/9/2023	$252.50	$126.25
Isabelle prescription eye drops for pink eye, Nov. 9, 2023	11/9/2023	$10.70	$5.35
Isabelle therapy, Nov. 14, 2023	12/16/2023	$92.13	$46.06
Isabelle medicine refill, Dec. 30, 2023	12/30/2023	$32.27	$16.13
Isabelle medicine refill, Feb. 10, 2024	2/10/2024	$32.27	$16.13
Isla therapy appointments	3/4/2024	$174.03	$87.01
Isabelle seizure meds refill	3/14/2024	$33.88	$16.94
Isla therapy appointment, Apr. 10, 2024	4/10/2024	$50.00	$25.00
Isabelle seizure refill, Apr. 17, 2024	4/17/2024	$45.19	$22.60
Isabelle therapy appointments, Mar. 19 and 27, 2024	4/17/2024	$218.06	$109.03
Natalie weight check appointment, Apr. 17, 2024	5/14/2024	$96.44	$48.22
Isabelle therapy appointment, Apr. 23, 2024	5/14/2024	$145.68	$72.84
Isabelle meds refill, May 14, 2024	5/14/2024	$45.19	$22.59
Isabelle neurology appointment, Apr. 8, 2024	6/6/2024	$425.64	$212.82
Isabelle and Isla therapy appointments	6/7/2024	$182.53	$91.26
Isabelle therapy appointment, May 14, 2024	7/11/2024	$86.85	$43.42
Isabelle meds refill, July 12, 2024	7/12/2024	$50.14	$25.07
Isabelle medication refill, August 16, 2024	8/16/2024	$43.82	$21.91
Isabelle medication refill, Sept 16, 2024	9/17/2024	$45.57	$22.78
Isabelle medication refill, October 15, 2024	10/16/2024	$45.57	$22.78
Isabelle medication refill, November 15, 2024	11/19/2024	$46.37	$23.18
			TOTAL UNPAID: $1,314.26

20. Finally, I am extremely concerned about our daughter's braces and Father not fulfilling his obligation. Our daughter is about to complete her Phase 1 of braces. The orthodontist office will not remove the braces until it is paid in full. The financial agreement provides that Father and I each pay one-half directly to the orthodontist. Additionally, Father approved our daughter's orthodontia care via email. He understood the financial obligation that her necessary care would create as I provided him with clear and specific cost estimates. Each time I talk our minor children to receive orthodontia care, the office inquires as to whether or not I have heard anything from Father regarding his share of the expenses. They have represented that they have left Father roughly a dozen voicemails, several text messages, and numerous emails. Father has not responded to anything. I am concerned that Father will not fulfill his financial obligation and then they will not be removed timely. ***See Emails re: Orthodontia, Exhibit 5.***

21. Additionally, Father has failed to maintain his financial obligations to our daughter's therapist. Specifically, Father refused to sign the financial agreement and necessary paperwork required by the therapist's office. As a result of Father's failure to cooperate, the therapist has discontinued services for our daughter. Father and I were required to sign the paperwork to continue treatment for our daughter. Father has willfully and intentionally refused. ***See Emails re: Therapy Appointments, Exhibit 6.***

22. I request that this Court enter judgment of $1,314.26 for past due medical expenses.

23. I request that this Court order that Father immediately pay his remaining one-half of the orthodontia.

24. I request that the Court issue orders that if Father fails to sign any paperwork necessary for therapeutic services for our children within 48 hours of the request, that his approval is not required and I can make the therapeutic decisions without his input or signature.

Communication

25. On June 23, 2020, the Court signed our Supplementing Parenting Plan. The Supplemental Parenting Plan required that Father and I were to "make our best efforts to [share information in a civil, cooperative, co-parenting fashion in furthering the best interests of our daughters." ***See Supplemental Parenting Plan, ¶ 3***.

26. Furthermore, the communication orders require that our "communication will be only regarding [our] children." *Id.* at ¶ 10.

27. In our communication, Father and I are to "treat each other with decency and respect." *Id.* at ¶ 23. Father and I are both under the obligation to "communicate in a business-like and respectful manner" and to "not allow the conversation to become heated or overly emotional." *Id.* at ¶ 24.

28. Father has failed to comply with the detailed communication provisions of this Court's orders. Father's failures have included being uncivil, becoming overly heated in the conversation, and refusing to respond (which is not "business-like" in nature).

29. On November 15, 2023, I emailed Father to inquire about summer plans for the 2024 summer. In particular, I needed to sign up our oldest daughter for a camp, which needed to be done by the end of the year. I let Father know that:

> The reason I ask is because Natalie is eligible to attend FSY (the Church's current version of EFY) next summer and registration is currently open until the end of the year. I'd like to sign her up and want to be sure it does not conflict with the custodial time you are planning. If I were to sign her up for a session in late July or early August, would that work for you? ***See Emails to Russel re: Summer 2024, Exhibit 7.***

30. Father did not respond. On December 7, 2023, three (3) weeks later, I followed up with Father letting him know that "I am planning to sign her up for the week of July 29 – August 3. If you have any conflict with that, please let me know asap so we can make other arrangements." *Id.*

Again, Father did not respond.

31. On April 13, 2024, after months without response, I followed up with Father, again, to confirm the dates and times for the FSY camp would work. *Id.*

32. Father's refusal to timely address this is not communicating in a business-like manner. Additionally, it is not sharing information in a manner that allows us to co-parent in our children's best interests. I was merely asking Father for a general timeframe for when he intended to exercise his extended summer parent-time. I was not even asking for specific dates.

33. On October 11, 2023, I emailed Father to confirm we were on the same page for the custody dates for pick-up/drop-off times for Thanksgiving and Christmas Break. I sent Father a civil and business-like email that stated:

> As the holidays are coming up, I wanted to confirm the girls' parent-time with you. My understanding is that Natalie, Isla and Isabelle will be with you for Thanksgiving from after school on Friday, November 17- Sunday, November 26. I'll plan to leave the girls' suitcase with the front office at Ridgeline as we've done in the past.
>
> For Christmas break, I have that the girls will be with you starting at 1pm on Saturday, December 30 - Sunday, January 7.
>
> I'd appreciate if you could confirm those dates to be sure we are on the same page. ***See Emails re: 2023 Holiday Schedules, Exhibit 8.***

34. Again, Father did not timely respond.

35. On November 16, 2023, as the holidays were upcoming, I emailed Father, again, to try to coordinate the holiday schedules asking him to confirm "what time would you like to meet on Sunday, Nov. 26th for me to pick up the girls?" *Id.*

36. On November 22, 2023, only a few days before Thanksgiving, I emailed Father, again, asking for confirmation for the pick-up and drop-off for the upcoming holiday. *Id.* I also needed to coordinate a doctor's appointment with Father, which was time sensitive. *Id.* Father still did not

respond.

37. After the Thanksgiving holiday, on November 28, 2023, I sent Father an email to try to coordinate the pick-up and drop-off for Christmas. *Id.*

38. On December 3, 2023, Father finally responded about the Christmas holiday and selected times for the holiday that were outside of his holiday parent-time. *Id.* I responded to Father on December 4, 2023 trying to resolve the conflict. Father did not respond.

39. As with the prior communications, Father's failure to timely respond was not business-like in manner and was not conducive to co-parenting.

40. In 2022, our youngest daughter needed to be enrolled in therapy. I repeatedly tried to address this with Father through email communication, which he ignored. I emailed Father about the therapy on February 2, 2022, February 9, 2022, February 25, 2022, March 1, 2022, March 15, 2022, November 3, 2022, July 8, 2023, July 17, 2023, and July 26, 2023. ***See Emails to Russel re: Therapy, Exhibit 9.*** Father repeatedly did not respond to my requests. Due to Father's refusal to communicate, our daughter's necessary therapy was delayed until October 2023.

41. In March 2023, our oldest daughter required oral surgery to remove 4 impacted wisdom teeth. I emailed Father 6 times over the course of March 2023 through August 2023 to address this with him and never received a response. ***See Emails re: Oral Surgery, Exhibit 10.*** I finally had to move forward with the operation without Father's input as our daughter's surgery became necessary to relieve pain and prevent further damage.

42. In November 2022 and December 2022, I sent 7-emails to Father requesting consent for our middle daughter to start therapy. It took over 7 emails, with no response, for Father to finally consent to the therapy. ***See Emails re: Therapy for Oldest Daughter, Exhibit 9.*** Again, Father

delayed this needed care for our daughter by refusing to respond.

43. In July 2022, I tried to communicate with Father about our daughter's baptism. I first emailed Father on July 16, 2022. He did not reply to this email. ***See Emails re: Baptism, Exhibit 11***. I then emailed Father on August 6, 2022, with no response. Father continued to ignore the baptism. On July 10, 2023, a year later with no response, I emailed Father about the baptism. *Id.* He still did not respond. On August 2, 2023, I emailed Father and finally received a response. *Id.*

44. Our youngest daughter has epilepsy. Father has routinely given incorrect dosages of medication for her medication. I have tried to coordinate this with him and requested information on his observations regarding her seizures. Father has not responded to these efforts, including ignoring emails on August 16, 2022 and September 12, 2022. ***See Emails re: Medication, Exhibit 12.***

45. Father is also uncivil in his communications to me on the rare occurrence that he does respond to my requests to co-parent. This is representative of Father's historical behavior. Previously, our minor children participated in reunification therapy after Father's release from prison. The provider wrote a letter indicating that Father continually disparaged me in front of the minor children. As a result, Father was required by the Court to exercise supervised parent-time over a Spring Break parent-time visit. Specifically, Father told our minor children things such as "Mom cares more about herself than you girls. She doesn't care about you, she just cares about herself and Ben. I (Russ) care more about you girls than anything." ***See Letter from Reunification Therapist, Exhibit 13.***

46. Father's disparaging and mean comments have continued since this time. For example, Father unilaterally scheduled flights during my parent-time during Winter Break 2023. When I did not agree to let him take our minor children outside of his scheduled parent-time, he "charged" me for the cost of the change fees and plane tickets. Father was punitive because I did not agree to let him take away from my parent-time. Regarding this dispute, Father emailed me disparaging comments on

December 26, 2023, stating:

"I am saddened that I have to send communication at this time to address your mean behavior regarding picking up and dropping off the girls for the second part of Christmas break.... This repeated mean behavior of limiting my time with my girls clearly shows the type of person who you truly are. Until this point, I have turned the other cheek to your attempts to "split the baby." I have given every opportunity for you to change your behavior. Sadly, the years have shown your behavior will not change unless you are forced to change." ***See Email dated December 26, 2023, Exhibit 14.***

47. Father also threatened to have a "sad conversation about how [my] selfish behavior has hurt the girls." *Id.* Father's emails are not civil or business-like.

48. Father sent me a follow-up email regarding this dispute on February 13, 2024 stating "On December 29, I informed you that I would be at the school to pick up the girls at 7:30 am for our scheduled flight. Should you choose not to make them available, you would pay for the entire price of the flight, plus change fees, from upcoming child support payments. I did not receive a response until after 5 pm on Friday, December 29, stating that you would no longer communicate with me regarding parent time, and any negotiation could be done through our attorneys. This was 16 hours before scheduled flights, and outside business hours when attorneys could assist... Your decision to withhold the children and cut off communication implied consent to my offer. You forfeited the right to change the financial settlement in the matter. The cost of the flights was $3,600, plus $1,000 to change the flights. I will continue to credit the full cost to future child support payments. You can expect cash payments when the credit has been exhausted." ***See Email dated February 13, 2024, Exhibit 15.***

49. Father cannot unilaterally change the controlling orders in this matter to dictate different parent-time for himself. Father also cannot unilaterally withhold child support because I would not comply with his demands. This is indicative of Father's historical controlling behavior. The Court needs to send a strong message that Father cannot behave in this poor manner.

50. As another example, Father emailed me the following on April 21, 2024:

"Lauren, this is not the first time you have behaved in this manner. It is sad that, as a mother, you would behave this way towards our children… Lauren, your behavior is absolutely contrary to that of good mother… I have not discussed how you threw away the principles of marriage for money. Is a sad state of affairs when you so publicly claim that family is so important to you, yet when it comes down to it, you're willing to trade it in for a bank account and a big house… I am reminded of the story of Solomon. He was asked to judge between two women who claimed a baby as their child. I'm sure you know this story well. Sadly, for you, your behavior is aligned with the woman who is willing to split the baby in half rather than allow the baby's true mother to have the child. You have attempted to split and alienate the girls from me. You have lied and manipulated. The mental and emotional

abuse that has occurred from you is unbelievable for the girls." ***See Email dated April 21, 2024, Exhibit 16.***

51. Notwithstanding Father's baseless accusations, it is significant that he does not acknowledge his extensive criminal history and time spent in prison which could result in any "alienation" he perceives in our minor children. Father's own criminal acts resulted in a lengthy period of absence from the lives of our minor children.

52. On September 5, 2024, Father emailed me making repeated disparaging statements to me. At the time, due to Father's failure to maintain his financial obligations, our minor child was unable to continue to receive therapy. Father responded telling me my actions are a "new low" and that my behavior was "deplorable." ***See Email dated September 4, 2024, Exhibit 17.***

53. Father told me that my actions were something that "no loving mother takes." *Id*

54. Father continued making disparaging comments about me telling me that "your disregard for anyone other than yourself is consistently sad and disappointing." *Id.*

55. I request that this Court find that Father is in contempt of court for failing to comply with the communication provisions of our Court orders.

56. To ensure future compliance, I request that this Court order that Father respond to communications within 48-hours. If Father fails to respond within 48 hours, I request that I be allowed to make the decision without his input. As the Court can see, his failure to communicate and respond has presented immediate and irreparable harm to our minor children.

57. I request that this Court order that we use Our Family Wizard (OFW) at Father's expense to ensure timely communicate that is responded to.

58. I request that this Court order that Father read the book, BIFF for Co-Parenting Communication by Bill Eddy, Ph.D. to ensure that he communicates in a civil and businesslike

manner.

59. I request such further relief as this Court deems just and equitable.

Mutual Restraining Order

60. The Supplemental Decree of Divorce provides that "[n]either party shall harm, harass, or annoy the other party or make any negative or derogatory comments about the other party in the presence of the children, or allow third parties to do so." ***See Amended Supplemental Decree of Divorce, ¶ 17.***

61. Additionally, the parenting plan, which is signed by this Court, provides clarification that this mutual restraining order requires that "[t]he parties will not discuss the divorce, who filed for the divorce, who chose the divorce, or express anything to the children regarding the parties' relationship, nor a hope that the parties will get back together." ***See Amended Supplemental Parenting Plan, ¶ 17.***

62. Father has failed to comply with this order. Father is currently maintaining an Instagram page under the username @kirkrusselmarsh. ***See Instagram Page, Exhibit 18***.

63. On his page, Father has clearly indicated that the intent of his page is to provide information to our daughters. On the heading of the page, Father states "For my girls, that they may always know what's important." *Id.* The profile picture is of Father hugging one of our daughters.

64. The posting on this public Instagram page, which is assessable to our daughters and the public in general, are copies of letters that Father sent to me while he was incarcerated. Throughout these letters, Father repeatedly disparages me, blames me for the divorce, discusses our relationship, and indicates that he had a desire to remain marriage. I find it harassing to have these details of my life to be publicly shared by Father. Even more concerning though, as our daughters can access the

information, the comments have been made in our daughter's presence. The information shared is a clear violation of the specific mutual restraining order. Father is attempting to cast blame on me for the dissolution of our marriage, specifically intending to alienate our minor children.

65. In fact, Father has publicly stated that the intent of his postings on Instagram are to provide the information to our daughters. Our daughters can find this page through a simple internet search. Our daughters do not even need an Instagram account to access the information.

66. I request that this Court find Father in contempt of Court.

67. I request that this Court order that Father attend a high conflict parenting class.

68. I request that this Court order that Father engage in therapy with an AFCC informed therapist.

Standard for Contempt

69. I understand that to be found in contempt of court, "a party must have (1) known of the duty imposed by the court's order, (2) had the ability to comply with the order, and (3) willfully and knowingly refused to comply." *Utah Farm Prod. Credit Ass'n v. Labrum*, 762 P.2d 1070, 1074 (Utah 1988). Father knew of his duty to pay financial obligations as indicated in current court orders, has the ability to comply, and willfully and knowingly refuses to comply.

70. Father has knowledge of the *Supplemental Decree* as it was issued by the Court after a two-day bench trial. Father understood what his obligations are under the *Supplemental Decree* and has willfully refused to comply. Father complied with the financial provisions of the *Supplemental Decree* from its entry in 2019 up until December 2023. It is significant that when Father's gross monthly income was only $60 while he was in federal prison, he was able to comply with his child support obligation. Now that Father is no longer in federal prison, he has an increased ability to comply with

his child support obligation. Yet, Father has not made any effort to comply, even partially, with his financial obligations as contained in the controlling orders. He has paid $0 since December 2023. As Father is paying zero child support, he is providing himself with the necessities of life. Father is also aware of the Court's orders regarding communication and mutual restraining order. Father's intentional disregard for these provisions of the Court's orders should not be tolerated. The Court needs to send a strong message to Father that he cannot cherry pick which court-ordered obligations to fulfil. Father should not be allowed to avoid his financial obligation to help support our three minor children in direct violation of the orders of the Court.

71. Father has the ability to comply with all of this Court's orders. Specifically, Father has the ability to comply with the Court's financial orders. Father currently flies to Utah from Virginia, almost monthly. Ticket prices for these flights are around $500-$750 per trip depending on the time of year. Father pays nearly an equal amount to his child support obligation on plane flights every month. In addition to these significant travel expenses, Father also gifted each of our minor children a brand new 10th generation iPad, engraved with their names in summer 2024. At that time, the costs for each of those was $450 each, for a total of $1,350 in consumer electronics, without additional costs for cases, engraving, etc. If Father can afford to buy our minor children brand new iPads, Father can afford to pay child support and other ordered costs.

72. Father willfully refuses to comply by not fulfilling his financial obligations as he has paid nothing in child support, medical expenses, or insurance costs since December 2023.

CONCLUSION AND SUMMARY OF REQUESTED RELIEF

73. I have tried to secure Father's compliance with the *Supplemental Decree*. Father has avoided his responsibilities for nearly a year. He refuses to acknowledge any of the bills that I send him to split evenly, despite being ordered to do so by the Court. He also refuses to pay his monthly

child support obligation.

74. Father should be found in civil contempt for his willful failures to follow the orders of this Court. These rules are an expectation and not an invitation. Father's repeated violations month after month without any remorse or consequence makes it likely that this will continue to happen. No one should be able to excuse themselves from legal compliance. I ask this Court to impose consequences, including jail time and financial penalties, so that he understands the importance of abiding by legal rules and the order of this Court. I request that Father be ordered to read the book BIFF for Co-Parenting Communication by Bill Eddy, Ph.D., an order that we use Our Family Wizard (OFW) at Father's expense, an order that Father respond to communications within 48 hours or I can make the final decision, an order that Father attend a high conflict parenting class, an order that Father remove his Instagram posts showing letters written to me, under the account @kirkrusselmarsh, and an order that Father engage in therapy with an AFCC informed therapist.

75. I also request the following judgments:

76. A judgment for $7,700 for past due child support from January 2024 through November 2024, and any further child support incurred between November 2024 and the date of the hearing.

77. A judgment for $1,320 for one-half of the costs of medical and dental insurance from January 2024 through October 2024, and any further medical and dental insurance costs incurred between October 2024 and the date of the hearing.

78. A judgment for $1,314.26 for one-half of all medical costs to be shared between the parties from December 2023 through October 2024, and any further medical costs incurred between October 2024 and the date of the hearing.

79. A judgment awarding me all attorney fees and costs, pursuant to U.C.A. §81-1-203 in being forced to bring the *Motion to Enforce* and supporting documents.

80. Imposing such other sanctions as the Court deems appropriate for Father's refusal to comply with previous Court orders.

81. Father is fully aware of his obligation to abide by the *Supplemental Decree of Divorce* and *Amended Supplemental Parenting Plan*. Father has the ability to comply and is willfully refusing to comply with the orders of this Court. I request that this Court enter sanctions consistent with Utah Code Ann. §§81-1-203(2) and 78B-6-310.

I declare under the laws of Utah that I have read the foregoing document and that the same is true and correct to the best of my knowledge.

DATED and SIGNED this 16th day of December, 2024 at Utah County, Utah.

/s/Lauren Marsh Zimmer - signed w/permission on 12.16.24

LAUREN MARSH ZIMMER